

## REMARKS

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action. The Office Action, mailed January 25, 2008, considered and rejected claims 1-3, 5, 8, 18, 20-24, 26 and 28 in light of *Bisberg* (U.S. Patent No. 3,903,613), *Bond* (U.S. Patent No. 4,889,108), and *Sweeney* (U.S. Patent No. 4,358,105).<sup>1</sup> By this paper, claims 1, 3, 8, 18, and 23 have been amended. Accordingly, following this paper, claims 1-3, 5, 8, 18, 20-24, 26, and 28 are pending, of which claims 1 and 18 are the only independent claims at issue.

### Rejections Under 35 U.S.C. § 102

In the Office Action, claims 18, 23, and 28 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Bisberg*. Applicant submits that claims 18, 23, and 28 are not anticipated by *Bisberg*.

*Bisberg* discloses a bicycle training device that "simulate[s] road conditions while the cycle and cyclist are in a static position" (Col. 3, ll. 24-25). The device includes a multi-gear "bicycle 2 mounted on a riser tripod 4," "a rear pulley assembly 28, 30" upon which the rear wheel 14 of the bicycle 2 is disposed, and "an audio information system ... which comprises a tape playback unit 40" (Col. 3, ll. 33-37, 49-51, 58-59). The "tape playback unit utilizes a tape having two tracks" (Col. 3, ll. 62-63). "One track supplies a normal audio signal ... to the operator of the bicycle" to advise "the operator that an incline lies ahead on the roadway" (Col. 3, ll. 3-5; Col. 4, 30-31). The "other track supplies varying frequencies" to dynamometer 52, which "applies resistance to movement of bicycle wheel 14 through pulley 30" (Col. 3, ll. 64-65; Col. 4, ll. 9-11). Thus, the *Bisberg* "device, using an audio or visual component, advises the trainee what road conditions he is approaching, recommends the proper arrangement of gears and then, through the use of an electronic signal, simulates those road conditions" by adjusting the resistance in pulley 30 (Col. 3, ll. 26-31).

In contrast, amended claim 18 recites "an exercise apparatus comprising: a frame; a body-engaging member, an actuator coupled between said frame and said body-engaging member; an audio display providing an audible alert of an impending change in a scripted

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

exercise session that is modifiable based upon a performance of a user of the exercise apparatus; and an actuator controller coupled to said actuator for implementing said change subsequent to said audible alert."

*Bisberg* neither teaches nor suggests "a scripted exercise session that is modifiable based upon a performance of a user of the exercise apparatus" as recited in claim 18. Additionally, *Bisberg* neither teaches nor suggests an "an actuator coupled between said frame and said body-engaging member" and "an actuator controller coupled to said actuator for implementing said change subsequent to said audible alert." Rather, *Bisberg* discloses a device using "a tape playback unit employing a prerecorded tape" and "a driven pulley 30" upon which "rear bicycle wheel 14 is disposed." In other words, *Bisberg*'s prerecorded tape does not store a modifiable script, and pulley 30 is not coupled between a frame and a body-engaging member of the exercise apparatus as recited in claim 18.

Accordingly, Applicant respectfully submits that independent claim 18 is neither disclosed in *Bisberg* nor an obvious variation of the device disclosed therein. Since claims 23 and 28 depend from independent claim 18, and therefore, include the limitations thereof, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 23 and 28 are neither disclosed by nor obvious variations of *Bisberg*.

#### **Rejections Under 35 U.S.C. § 103**

In the Office Action, claims 1, 3, 5, 8, 24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bisberg*. Applicant submits that claims 1, 3, 5, 8, 24 and 26 are not obvious in light of *Bisberg*.

Independent claim 1, as amended and presented herein, recites, among other things, an exercise system comprising "an exercise apparatus providing a scripted virtual personal training experience for a user of said exercise apparatus, said scripted virtual personal training experience being stored in a memory which is removably engageable with said exercise apparatus, ... said scripted virtual personal training experience being modifiable based upon a performance of the user."

Similar to the above discussion regarding claim 18, *Bisberg* neither teaches nor suggests a "scripted virtual personal training experience being modifiable based upon a performance of the user." Additionally, *Bisberg* neither teaches nor suggests "a scripted virtual personal training experience for a user of said exercise apparatus which is stored in a memory which is removably

engageable with said exercise apparatus." Rather, *Bisberg* discloses a device using "a tape recorder with playback facilities and a prerecorded tape [that] is inserted therein." In other words, *Bisberg's* prerecorded tape does not store a modifiable script, and the prerecorded tape is engageable with the tape recorder, not the exercise apparatus as recited in claim 1.

Accordingly, Applicant respectfully submits that independent claim 1 is neither disclosed in *Bisberg* nor an obvious variation of the device disclosed therein. Since claims 3, 5, 8, 24, and 26 depend from independent claims 1 and 18, respectfully, and therefore, include the limitations thereof, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 3, 5, 8, 24, and 26 are neither disclosed by nor obvious variations of *Bisberg*.

In the Office Action, claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bisberg* in view of *Bond*. The Office Action also rejected claims 20-22 under 35 U.S.C. § 103(a) as being unpatentable over *Bisberg* in view of *Sweeney*. Applicant respectfully traverses.

Claims 2 and 20-22 depend from independent claims 1 and 18, respectively, and thus incorporate the limitations recited therein. As discussed above, *Bisberg* fails to disclose or obviate claims 1 and 18. Furthermore, it has not been established that either *Bond* or *Sweeney* remedies the defects of *Bisberg*. Therefore, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 2 and 20-22 are neither disclosed by nor obvious variations of *Bisberg*, *Bond*, and *Sweeney*.

**Conclusion**

By this paper pending claims 1, 3, 8, 18, and 23 have been amended. Claims 1-3, 5, 8, 18, 20-24, 26, and 28 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 26<sup>th</sup> day of February 2008.

Respectfully submitted,

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